

AMENDED IN SENATE DECEMBER 15, 2009

AMENDED IN SENATE FEBRUARY 23, 2009

**SENATE BILL**

**No. 46**

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**Introduced by Senator Alquist**

**(Principal coauthor: Senator Correa)**

**(Coauthors: Senators ~~Benoit~~, Florez, Maldonado, Pavley, Wiggins,  
and Yee)**

**(Coauthors: Assembly Members Bill Berryhill, Lieu, Monning, Niello,  
Portantino, Smyth, and Torlakson)**

January 7, 2009

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An act to amend Section ~~799~~ 801.1 of the Penal Code, relating to statutes of limitation.

LEGISLATIVE COUNSEL'S DIGEST

SB 46, as amended, Alquist. Sex offenders: commencing trial: time.

*Under existing law, prosecution for specified felony sex offenses, including rape, sodomy, lewd or lascivious acts, oral copulation, continuous sexual abuse of a child, and acts of sexual penetration that are alleged to have been committed when the victim was under the age of 18 years, may be commenced at any time prior to the victim's 28th birthday. Existing law also allows a complaint alleging one or more of these offenses to be filed beyond this time limitation in certain specified instances if the crimes involve substantial sexual conduct and there is independent corroborating evidence of the allegations.*

*This bill would allow the prosecution of the felony sex offenses specified above to be commenced at any time if the crime is alleged to have been committed when the victim was under the age of 14.*

~~Existing law provides that the prosecution of an offense punishable by death or by imprisonment in the state prison for life or for life without~~

the possibility of parole, or for the embezzlement of public money, may be commenced at any time.

~~This bill would add specified sex offenses, including rape, sodomy, lewd or lascivious acts, oral copulation, continuous sexual abuse of a child, and acts of sexual penetration to the list of crimes for which there is no statute of limitation for prosecution.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 801.1 of the Penal Code is amended to  
2     read:

3     801.1. (a) Notwithstanding any other limitation of time  
4     described in this chapter, prosecution for a felony offense described  
5     in Section 261, 286, 288, 288.5, 288a, or 289, or former Section  
6     289.5, as enacted by Chapter 293 of the Statutes of 1991 relating  
7     to penetration by an unknown object, that is alleged to have been  
8     committed when the victim was under the age of 14 years, may be  
9     commenced at any time.

10    (a) Notwithstanding any other limitation of time described in  
11    this chapter, prosecution for a felony offense described in Section  
12    261, 286, 288, 288.5, 288a, or 289, or former Section 289.5, as  
13    enacted by Chapter 293 of the Statutes of 1991 relating to  
14    penetration by an unknown object, that is alleged to have been  
15    committed when the victim was 14 years of age or older, but under  
16    the age of 18 years, may be commenced any time prior to the  
17    victim's 28th birthday.

18    (b) Notwithstanding any other limitation of time described in  
19    this chapter, if subdivision (a) does not apply, prosecution for a  
20    felony offense described in subdivision (c) of Section 290 shall  
21    be commenced within 10 years after commission of the offense.

22    ~~SECTION 1. Section 799 of the Penal Code is amended to~~  
23    ~~read:~~

24    ~~799. (a) Prosecution for any of the following may be~~  
25    ~~commenced at any time:~~

26    ~~(1) Offenses punishable by death.~~

27    ~~(2) Offenses punishable by imprisonment in the state prison for~~  
28    ~~life.~~

1     ~~(3) Offenses punishable by imprisonment in the state prison for~~  
2 ~~life without possibility of parole.~~

3     ~~(4) Offenses relating to the embezzlement of public money.~~

4     ~~(5) Offenses described in Section 261, 286, 288, 288a, 288.5,~~  
5 ~~289, or former Section 289.5, as enacted by Chapter 293 of the~~  
6 ~~Statutes of 1991 relating to penetration by an unknown object.~~

7     ~~(b) This section shall apply in any case in which the defendant~~  
8 ~~was a minor at the time of the commission of the offense and the~~  
9 ~~prosecuting attorney could have petitioned the court for a fitness~~  
10 ~~hearing pursuant to Section 707 of the Welfare and Institutions~~  
11 ~~Code.~~

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